

# COMMITTEE REPORT

MR. PRESIDENT:

The Senate Committee on Insurance and Financial Institutions, to which was referred Senate Bill No. 559, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

1       Page 1, between the enacting clause and line 1, begin a new  
 2       paragraph and insert:  
 3       "SECTION 1. IC 27-1-3-15 IS AMENDED TO READ AS  
 4       FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 15. (a) Except as  
 5       provided in subsection ~~(g)~~, ~~(f)~~, the commissioner shall collect the  
 6       following **filing** fees: ~~when the documents described in this subsection~~  
 7       ~~are delivered to the commissioner for filing:~~

8           Document	Fee
9       Articles of incorporation . . . . .	\$ 350
10      Amendment of articles of	
11      incorporation . . . . .	\$ 10
12      Filing of annual statement	
13      and consolidated statement . . . . .	\$ 100
14      Annual renewal of company license	
15      fee . . . . .	\$ 50
16 <del>Appointment of commissioner for</del>	
17 <del>service of process</del> . . . . .	<del>\$ 10</del>
18      Withdrawal of certificate	
19      of authority . . . . .	\$ 25

- 1 Certified statement of condition ..... \$ 5  
 2 Any other document required to be  
 3 filed by this article ..... \$ 25  
 4 (b) ~~The commissioner shall collect a fee of ten dollars (\$10) each~~  
 5 ~~time process is served on the commissioner under this title.~~  
 6 (c) The commissioner shall collect the following fees for copying  
 7 and certifying the copy of any filed document relating to a domestic or  
 8 foreign corporation:  
 9 Per page for copying ..... As determined by  
 10 the commissioner but not to exceed actual cost  
 11 For the certificate ..... \$10  
 12 ~~(d)~~ (c) Each domestic and foreign insurer shall remit annually to the  
 13 commissioner for deposit into the department of insurance fund  
 14 established by IC 27-1-3-28 three hundred fifty dollars (\$350) as an  
 15 internal audit fee. All assessment insurers, farm mutuals, fraternal  
 16 benefit societies, and health maintenance organizations shall remit to  
 17 the commissioner for deposit into the department of insurance fund one  
 18 hundred dollars (\$100) annually as an internal audit fee.  
 19 ~~(e)~~ (d) Beginning July 1, 1994, each insurer shall remit to the  
 20 commissioner for deposit into the department of insurance fund  
 21 established by IC 27-1-3-28 a fee of thirty-five dollars (\$35) for each  
 22 policy, rider, and endorsement filed with the state. However, each  
 23 policy, rider, and endorsement filed as part of a particular product  
 24 filing and associated with that product filing shall be considered to be  
 25 a single filing and subject only to one (1) thirty-five dollar (\$35) fee.  
 26 ~~(f)~~ (e) The commissioner shall pay into the state general fund by the  
 27 end of each calendar month the amounts collected during that month  
 28 under subsections (a) **and** (b). ~~and (c).~~  
 29 ~~(g)~~ (f) The commissioner may not collect fees for quarterly  
 30 statements filed under IC 27-1-20-33.  
 31 SECTION 2. IC 27-1-3-29 IS ADDED TO THE INDIANA CODE  
 32 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 33 1, 1999]: **Sec. 29. (a) Except as otherwise provided by statute, a**  
 34 **policy is enforceable against the insurer according to its terms,**  
 35 **even if the policy exceeds the authority of the insurer.**  
 36 (b) A policy that violates a statute or rule is enforceable against  
 37 the insurer as if the policy conformed to the statute or rule.  
 38 (c) Upon the written request of the policyholder or the insured

**whose rights under the policy are continuing and not transitory, an insurer shall reform and reissue its written policy to comply with the requirements of the law existing at the date of issue or last renewal of the policy.**

SECTION 3. IC 27-1-15.5-7.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7.1. (a) This section does not apply to a nonresident licensee that:

- (1) is licensed as a resident insurance agent by another state that has a continuing education requirement as a condition for license renewals; and
- (2) meets all the requirements for licensure in the resident state of the nonresident licensee.

(b) To renew a license issued under this chapter:

- (1) an insurance agent (as defined in section 2(b) of this chapter) must complete at least thirty (30) hours of credit in continuing education courses; and
- (2) a limited insurance representative (as defined in section 2(e) of this chapter) must complete at least ten (10) hours of credit in continuing education.

(c) To satisfy the requirements of subsection (b), a licensee may use only those credit hours earned in continuing education courses completed by the licensee:

- (1) after the date on which the licensee last renewed a license under this chapter; or
- (2) if the licensee is renewing a license for the first time, after the date on which the licensee was issued the license under this chapter.

(d) If an insurance agent (as defined in section 2(b) of this chapter) holds more than one (1) license under this chapter, the licensee may not be required to complete a total of more than thirty (30) hours of credit in continuing education courses to renew all of the licenses.

(e) A licensee may receive credit only for completing continuing education courses that have been approved by the commissioner under section 7.3 of this chapter.

(f) A licensee who teaches a course approved by the commissioner under section 7.3 of this chapter may receive continuing education credit for teaching the course.

(g) When a licensee renews a license issued under this chapter, the

licensee must submit **information required by the commissioner evidencing completion of continuing education requirements and any other information required by the commissioner. This information may include a statement signed under oath by the licensee that the licensee has completed continuing education requirements.**

(1) a continuing education statement that:

(A) is on a form provided by the commissioner;

(B) is signed by the licensee under oath; and

(C) lists the continuing education courses completed by the licensee to satisfy the continuing education requirements under this section; and

(2) any other information required by the commissioner.

(h) ~~A continuing education statement~~ **Information** submitted under subsection (g) may be reviewed and audited by the department of insurance.

(i) A licensee shall retain a copy of the original certificate of completion received by the licensee for completion of a continuing education course.

(j) The commissioner may adopt rules under IC 4-22-2 to implement this section.

SECTION 4. IC 27-1-15.5-7.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7.3. (a) The commissioner shall approve and disapprove continuing education courses after considering recommendations made by the insurance agent education and continuing education advisory council under section 20(h) of this chapter.

(b) The commissioner may not approve a course under this section that:

(1) is designed to prepare an individual to receive an initial license under this chapter;

(2) deals only with office skills;

(3) concerns sales promotion and sales techniques;

(4) deals with motivation, psychology, or time management; or

(5) may be completed by a licensee without any supervision by an instructor unless the course involves an examination process:

(A) completed and passed by the licensee as determined by the provider of the course; and

1 (B) approved by the commissioner.

2 (c) **The commissioner may enter into reciprocal agreements**  
 3 **with other states for the approval and disapproval of continuing**  
 4 **education courses. The commissioner may approve or disapprove**  
 5 **a course on the basis of a reciprocal state's approval or disapproval**  
 6 **of the course. The reciprocal agreement may not permit approval**  
 7 **of a course described in subsection (b).**

8 (d) The commissioner shall adopt rules under IC 4-22-2 to establish  
 9 procedures for approving continuing education courses.

10 SECTION 5. IC 27-1-15.5-8 AND P.L.91-1998, SECTION 6, IS  
 11 CORRECTED AND AMENDED TO READ AS FOLLOWS  
 12 [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The commissioner may  
 13 suspend, revoke, refuse to continue, renew, or issue any license issued  
 14 under this chapter, or impose any of the disciplinary sanctions under  
 15 subsection (f) if, after notice to the licensee and to the insurer  
 16 represented and a hearing, the commissioner finds as to the licensee  
 17 any one (1) or more of the following conditions:

- 18 (1) Any materially untrue statement in the license application.
- 19 (2) Any cause for which issuance of the license could have been  
 20 refused had it then existed and been known to the commissioner  
 21 at the time of issuance.
- 22 (3) Violation of or noncompliance with any insurance laws,  
 23 violation of any provision of IC 28 concerning the sale of a life  
 24 insurance policy or an annuity contract, or violation of any lawful  
 25 rule, regulation, or order of the commissioner or of a  
 26 commissioner of another state.
- 27 (4) Obtaining or attempting to obtain any such license through  
 28 misrepresentation or fraud.
- 29 (5) Improperly withholding, misappropriating, or converting to  
 30 the licensee's own use any money belonging to policyholders,  
 31 insurers, beneficiaries, or others received in the course of the  
 32 licensee's insurance business.
- 33 (6) Misrepresentation of the terms of any actual or proposed  
 34 insurance contract.
- 35 (7) A:  
 36 (A) conviction of; *or*  
 37 (B) *plea of guilty, no contest, or nolo contendere to;*  
 38 a felony or misdemeanor involving moral turpitude.

- 1 (8) The licensee has been found guilty of any unfair trade practice  
 2 or of fraud.
- 3 (9) In the conduct of the licensee's affairs under the license, the  
 4 licensee has used fraudulent, coercive, or dishonest practices, or  
 5 has shown himself to be incompetent, untrustworthy, or  
 6 financially irresponsible, or not performing in the best interests of  
 7 the insuring public.
- 8 (10) The licensee's license has been suspended or revoked in any  
 9 ~~other~~ state, province, district, or territory.
- 10 (11) The licensee has forged another's name to an application for  
 11 insurance.
- 12 (12) An applicant has been found to have been cheating on a  
 13 examination for an insurance license.
- 14 (13) The applicant or licensee is on the most recent tax warrant  
 15 list supplied to the commissioner by the department of state  
 16 revenue.
- 17 (14) The licensee has failed to satisfy the continuing education  
 18 requirements under section 7.1 of this chapter.
- 19 *(15) The licensee has violated section 24 of this chapter.*
- 20 (b) The commissioner shall refuse to:
- 21 (1) issue a license; or
- 22 (2) renew a license issued;
- 23 under this chapter to any person who is the subject of an order issued  
 24 by a court under IC 31-14-12-7 or IC 31-16-12-10 (or  
 25 IC 31-1-11.5-13(m) or IC 31-6-6.1-16(m) before their repeal).
- 26 (c) In the event that the action by the commissioner is to not renew  
 27 or to deny an application for a license, the commissioner shall notify  
 28 the applicant or licensee and advise, in writing, the applicant or  
 29 licensee of the reasons for the denial or nonrenewal of the applicant's  
 30 or licensee's license. Not later than sixty (60) days after receiving a  
 31 notice from the commissioner under this subsection, the applicant or  
 32 licensee may make written demand upon the commissioner for a  
 33 hearing to determine the reasonableness of the commissioner's action.  
 34 Such hearing shall be held within thirty (30) days from the date of  
 35 receipt of the written demand of the applicant.
- 36 (d) The license of a corporation may be suspended, revoked, or  
 37 refused if the commissioner finds, after hearing, that an individual  
 38 licensee's violation was known or should have been known by one (1)

1 or more of the officers or managers acting on behalf of the corporation  
 2 and such violation was not reported to the insurance department nor  
 3 corrective action taken in relation to the violation.

4 (e) In addition to or in lieu of any applicable denial, suspension, or  
 5 revocation of a license, any person violating this chapter may, after  
 6 hearing, be subject to a civil penalty of not less than fifty dollars (\$50)  
 7 nor more than ten thousand dollars (\$10,000). Such a penalty may be  
 8 enforced in the same manner as civil judgments.

9 (f) The commissioner may impose any of the following sanctions,  
 10 singly or in combination, when the commissioner finds that a licensee  
 11 is guilty of any offense under subsection (a):

12 (1) Permanently revoke (as defined in subsection (i)) a licensee's  
 13 certificate.

14 (2) Revoke a licensee's certificate with a stipulation that the  
 15 licensee may not reapply for a certificate for a period fixed by the  
 16 commissioner. The fixed period may not exceed ten (10) years.

17 (3) Suspend a licensee's certificate.

18 (4) Censure a licensee.

19 (5) Issue a letter of reprimand.

20 (6) Place a licensee on probation status and require the licensee  
 21 to:

22 (A) report regularly to the commissioner upon the matters that  
 23 are the basis of probation;

24 (B) limit practice to those areas prescribed by the  
 25 commissioner; or

26 (C) continue or renew professional education under a licensee  
 27 approved by the commissioner until a satisfactory degree of  
 28 skill has been attained in those areas that are the basis of the  
 29 probation.

30 The commissioner may withdraw the probation if the  
 31 commissioner finds that the deficiency that required disciplinary  
 32 action has been remedied.

33 (g) *The commissioner may order the licensee to make restitution if*  
 34 *the commissioner finds that the licensee has violated:*

35 (1) *subsection (a)(5);*

36 (2) *subsection (a)(8);*

37 (3) *subsection (a)(9); or*

38 (4) *section 24 of this chapter.*

(h) The insurance commissioner shall notify the securities commissioner when an administrative action or civil proceeding is filed under this section and when an order is issued under this section denying, suspending, or revoking a license.

~~(h)~~ (i) For purposes of subsection (f), "permanently revoke" means that the licensee's certificate shall never be reinstated and the licensee shall not be eligible to submit an application for a certificate to the department.

SECTION 6. IC 27-1-17-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. Whenever a foreign or an alien insurance company desires to be admitted to do an insurance business in this state, it shall execute in the English language and present the following to the department, at its office, accompanied by the fees prescribed by law:

(a) A copy of its articles of incorporation or association, with all amendments thereto, duly authenticated by the proper officer of the state, country, province, or government wherein it is incorporated or organized, or the state in which it is domiciled in the United States.

(b) An application for admission, executed in the manner provided in this chapter, setting forth:

(1) the name of such company;

(2) the location of its principal office or place of business without this state;

(3) the names of the states in which it has been admitted or qualified to do business;

(4) the character of insurance business under its articles of incorporation or association which it intends to transact in this state, which must conform to the class or classes set forth in the provisions of IC 27-1-5-1;

(5) the total authorized capital stock of the company and the amount thereof issued and outstanding, and the surplus required of such company by the laws of the state, country, province, or government under which it is organized, or the state in which it is domiciled in the United States, if a stock company, which shall equal at least the requirements set forth in section 5(a) of this chapter;

(6) the total amount of assets and the surplus of assets over all



- 1           its liabilities, if other than a stock company, which shall equal  
2           at least the requirements set forth in section 5(b) of this  
3           chapter;
- 4           (7) if an alien company, the surplus of assets invested  
5           according to the laws of the state in the United States where it  
6           has its deposit, which shall equal at least the requirements set  
7           forth in section 5(c) of this chapter; and
- 8           (8) such further and additional information as the department  
9           may from time to time require.
- 10          The application shall be signed in duplicate, in the form  
11          prescribed by the department, by the president or a vice president  
12          and the secretary or an assistant secretary of the corporation, and  
13          verified under oath by the officers signing the same.
- 14          (c) A statement of its financial condition and business, in the form  
15          prescribed by law for annual statements, signed and sworn to by  
16          the president or secretary or other principal officers of the  
17          company; provided, however, that an alien company shall also  
18          furnish a separate statement comprising only its condition and  
19          business in the United States, which shall be signed and sworn to  
20          by its United States manager.
- 21          (d) A copy of the last report of examination certified to by the  
22          insurance commissioner or other proper supervisory official of the  
23          state in which such company is domiciled; provided, however,  
24          that the commissioner may cause an examination to be made of  
25          the condition and affairs of such company before authority to  
26          transact business in this state is given.
- 27          (e) A certificate from the proper official of the state, country,  
28          province, or government wherein it is incorporated or organized,  
29          or the state in which it is domiciled in the United States, that it is  
30          duly organized or incorporated under those laws and authorized  
31          to make the kind or kinds of insurance which it proposes to make  
32          in this state.
- 33          (f) A copy of its bylaws or regulations, if any, certified to by the  
34          secretary or similar officer of the insurance company.
- 35          (g) Copies of forms of all policies which the insurance company  
36          proposes to issue in this state and also copies of the forms of  
37          application for such policies.
- 38          (h) A duly executed power of attorney in a form prescribed by the

1 department which constitutes and appoints ~~the commissioner or~~  
 2 ~~his successor, or successors,~~ **an individual or a corporate**  
 3 **resident of Indiana, or an authorized Indiana insurer, as the**  
 4 **insurance company's agent,** its true and lawful attorney upon  
 5 whom all lawful processes in any action in law or in equity  
 6 against it shall be served. Such power of attorney shall contain an  
 7 agreement by the insurance company that any lawful process  
 8 against it which may be served upon the ~~commissioner~~ **agent** as  
 9 its attorney shall be of the same force and validity as if served  
 10 upon the insurance company and that such power of attorney shall  
 11 continue in force and be irrevocable so long as any liability of the  
 12 insurance company remains outstanding in this state. Such power  
 13 of attorney shall be executed by the president and secretary of the  
 14 insurance company or other duly authorized officers under its seal  
 15 and shall be accompanied by a certified copy of the resolution of  
 16 the board of directors of the company making said appointment  
 17 and authorizing the execution of said power of attorney. ~~Whether~~  
 18 ~~or not the power of attorney referred to in this subdivision shall~~  
 19 ~~have been executed; every foreign or alien insurance company~~  
 20 ~~admitted to do business in this state shall be deemed to have~~  
 21 ~~appointed the commissioner its true and lawful attorney upon~~  
 22 ~~whom all lawful processes in any action at law or in equity against~~  
 23 ~~it shall be served.~~ Service of any lawful process shall be by  
 24 delivering to and leaving with the ~~commissioner~~ **agent** two (2)  
 25 copies of such process, with copy of the pertinent complaint  
 26 attached. ~~together with a fee as required under IC 27-1-3-15.~~ The  
 27 ~~commissioner~~ **agent** shall forthwith transmit to the defendant  
 28 company at its last known principal place of business by  
 29 registered or certified mail, return receipt requested, one (1) of the  
 30 copies of such process, with complaint attached, the other copy to  
 31 be retained in a record which shall show all process served upon  
 32 and transmitted by him. Such service shall be sufficient provided  
 33 the returned receipt or, if the defendant company shall refuse to  
 34 accept such mailing, the registered mail together with an affidavit  
 35 of plaintiff or his attorney stating that service was made upon the  
 36 ~~commissioner~~ **agent** and forwarded as above set forth but that  
 37 such mail was returned by the post office department is filed with  
 38 the court. The ~~department~~ **agent** shall make information and

1 receipts available to plaintiff, defendant or their attorneys. No  
 2 plaintiff or complainant shall be entitled to a judgment by default  
 3 based on service authorized by this section until the expiration of  
 4 at least thirty (30) days from the date on which either the post  
 5 office receipt or the unclaimed mail together with affidavit is filed  
 6 with the court. Nothing in this section shall limit or abridge the  
 7 right to serve any process, notice or demand upon any company  
 8 in any other manner permitted by law.

9 (i) Proof which satisfies the department that it has complied with  
 10 the financial requirements imposed in this chapter upon foreign  
 11 and alien insurance companies which transact business in this  
 12 state and that it is entitled to public confidence and that its  
 13 admission to transact business in this state will not be prejudicial  
 14 to public interest.

15 SECTION 7. IC 27-1-18-2 IS AMENDED TO READ AS  
 16 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) Every insurance  
 17 company not organized under the laws of this state, and each domestic  
 18 company electing to be taxed under this section, and doing business  
 19 within this state shall, on or before March 1 of each year, report to the  
 20 department, under the oath of the president and secretary, the gross  
 21 amount of all premiums received by it on policies of insurance  
 22 covering risks within this state, or in the case of marine or  
 23 transportation risks, on policies made, written, or renewed within this  
 24 state during the twelve (12) month period ending on December 31 of  
 25 the preceding calendar year. From the amount of gross premiums  
 26 described in this subsection shall be deducted:

27 (1) considerations received for reinsurance of risks within this  
 28 state from companies authorized to transact an insurance business  
 29 in this state;

30 (2) the amount of dividends paid or credited to resident insureds,  
 31 or used to reduce current premiums of resident insureds;

32 (3) the amount of premiums actually returned to residents on  
 33 account of applications not accepted or on account of policies not  
 34 delivered; and

35 (4) the amount of unearned premiums returned on account of the  
 36 cancellation of policies covering risks within the state.

37 (b) A domestic company shall be taxed under this section only in  
 38 each calendar year with respect to which it files a notice of election.

1 The notice of election shall be filed with the insurance commissioner  
2 and the commissioner of the department of state revenue on or before  
3 November 30 in each year and shall state that the domestic company  
4 elects to submit to the tax imposed by this section with respect to the  
5 calendar year commencing January 1 next following the filing of the  
6 notice. The exemption from license fees, privilege, or other taxes  
7 accorded by this section to insurance companies not organized under  
8 the laws of this state and doing business within this state which are  
9 taxed under this chapter shall be applicable to each domestic company  
10 in each calendar year with respect to which it is taxed under this  
11 section. In each calendar year with respect to which a domestic  
12 company has not elected to be taxed under this section it shall be taxed  
13 without regard to this section.

14 (c)(1) For the privilege of doing business in this state, every  
15 insurance company required to file the report provided in this section  
16 shall pay into the treasury of this state an amount equal to two percent  
17 (2%) of the excess, if any, of the gross premiums over the allowable  
18 deductions.

19 (c)(2) Payments of the tax imposed by this section shall be made on  
20 a quarterly estimated basis. The amounts of the quarterly installments  
21 shall be computed on the basis of the total estimated tax liability for the  
22 current calendar year and the installments shall be due and payable on  
23 or before April 15, June 15, September 15, and December 15, of the  
24 current calendar year.

25 (c)(3) Any balance due shall be paid in the next succeeding calendar  
26 year at the time designated for the filing of the annual report with the  
27 department.

28 (c)(4) Any overpayment of the estimated tax during the preceding  
29 calendar year shall be allowed as a credit against the liability for the  
30 first installment of the current calendar year.

31 (c)(5) In the event a company subject to taxation under this section  
32 fails to make any quarterly payment in an amount equal to at least:

33 (i) twenty-five percent (25%) of the total tax paid during the  
34 preceding calendar year; or

35 (ii) twenty per cent (20%) of the actual tax for the current  
36 calendar year;

37 the company shall be liable, in addition to the amount due, for interest  
38 in the amount of one percent (1%) of the amount due and unpaid for

1 each month or part of a month that the amount due, together with  
 2 interest, remains unpaid. This interest penalty shall be exclusive of and  
 3 in addition to any other fee, assessment, or charge made by the  
 4 department.

5 (d) The taxes under this article shall be in lieu of all license fees or  
 6 privilege or other tax levied or assessed by this state or by any  
 7 municipality, county, or other political subdivision of this state. No  
 8 municipality, county, or other political subdivision of this state shall  
 9 impose any license fee or privilege or other tax upon any insurance  
 10 company or any of its agents for the privilege of doing an insurance  
 11 business therein, except the tax authorized by IC 22-12-6-5. However,  
 12 the taxes authorized under IC 22-12-6-5 shall be credited against the  
 13 taxes provided under this chapter. This section shall not be construed  
 14 to prohibit the levy and collection of state, county, or municipal taxes  
 15 upon real and tangible personal property of such company, or to  
 16 prohibit the levy of any retaliatory tax, fine, penalty, or fee provided by  
 17 law. However, all insurance companies, foreign or domestic, paying  
 18 taxes in this state predicated in part on their premium income from  
 19 policies sold and premiums received in Indiana, shall have the same  
 20 rights and privileges from further taxation and shall be given the same  
 21 credits wherever applicable, as those set out for those companies  
 22 paying only a tax on premiums as set out in this section.

23 (e) Any insurance company failing or refusing, for more than thirty  
 24 (30) days, to render an accurate account of its premium receipts as  
 25 provided in this section and pay the tax due thereon shall be subject to  
 26 a penalty of one hundred dollars (\$100) for each additional day such  
 27 report and payment shall be delayed, ~~to be recovered in an action in the~~  
 28 ~~name of the state of Indiana on the relation of the department of~~  
 29 ~~insurance, in any court of competent jurisdiction, and it shall be the~~  
 30 ~~duty of the department to not to exceed a maximum penalty of ten~~  
 31 **thousand dollars (\$10,000). The penalty may be ordered by the**  
 32 **commissioner after a hearing under IC 4-21.5-3. The commissioner**  
 33 **may** revoke all authority of such defaulting company to do business  
 34 within this state, or suspend such authority during the period of such  
 35 default, in the discretion of the ~~department~~ **commissioner**.

36 SECTION 8. IC 27-1-20-21 IS AMENDED TO READ AS  
 37 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. (a) Every  
 38 company doing business in this state shall file with the department on

or before March 1 in each year a financial statement for the year ending December 31 immediately preceding in a format in accordance with IC 27-1-3-13. For good and sufficient cause shown, the commissioner may grant to any individual company a reasonable extension of time not to exceed ninety (90) days within which such statement may be filed. Such statement shall be verified by the oaths of the president or a vice president and the secretary or an assistant secretary of the company. The statement of an alien company shall segregate and state separately its condition and transaction in the United States and such segregated and separated statement shall be verified by the oath of its resident manager or principal representative in the United States. The commissioner of insurance may, with the approval of the commission on public records, authorize the destruction of such annual statements which have been on file for two (2) years or more and microfilm copies of which have been made and filed.

(b) A company that during the previous calendar year provided:

(1) insurance of the type described in IC 27-1-5-1, Class 2(h); to one (1) or more Indiana political subdivisions (as defined in IC 34-6-2-110);

(2) insurance of the type described in IC 27-1-5-1, Class 2(h) type insurance covering liability risks related to the ownership or operation of establishments in Indiana at which alcoholic beverages are sold and consumed;

(3) recreational facilities liability insurance;

(4) lawyers professional liability insurance;

(5) product liability insurance;

(6) uninsured and underinsured motorist insurance;

(7) owners, landlords, and tenants liability insurance; or

(8) day care centers liability insurance;

shall file with the department, as an additional part of the financial statement required under subsection (a); an exhibit of premiums and losses reflecting the company's financial results exclusively in connection with that insurance.

(c) The exhibit required under subsection (b) must set forth figures indicating:

(1) direct premiums written;

(2) direct premiums earned;

(3) direct losses paid;

- (4) direct losses incurred;
- (5) direct losses unpaid;
- (6) allocated loss adjustment expenses; and
- (7) unallocated loss adjustment expenses;

for the year of the financial statement in connection with all insurance described in subsection (b).

(d) This subsection applies to insurers that provide one (1) or more of the following types of insurance during a calendar year:

- (1) Child care liability insurance;
- (2) Political subdivision liability insurance, including public schools;
- (3) Errors and omissions liability insurance;
- (4) Officers and director liability insurance;
- (5) Liquor liability insurance.

An insurer covered by this subsection shall file the exhibit described in subsection (e) with the department, as an additional part of the financial statement required under subsection (a) for the calendar year in which the insurance was provided:

(e) The exhibit required under subsection (d) must report:

- (1) the number of jury awards paid under the provisions of the insurance during the calendar year, and the total amount paid for all jury awards;
- (2) the number of court awards (other than jury awards) paid under the provisions of the insurance during the calendar year, and the total amount paid for all of those awards; and
- (3) the number of negotiated settlements paid under the provisions of the insurance during the calendar year, and the total amount paid for all those negotiated settlements.

(f) The information described in subsection (e) shall be reported in each year after 1990:

(g) The information described in subsection (e) shall be reported in each year beginning in 1990 for the following lines of insurance:

- (1) Recreational facilities liability insurance;
- (2) Lawyers professional liability insurance;
- (3) Product liability insurance;
- (4) Uninsured and underinsured motorist insurance;
- (5) Owners, landlords, and tenants liability insurance;
- (6) Day care centers liability insurance.

SECTION 9. IC 27-1-20-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 33. (a) As used in this section, "insurer" refers to each:

- (1) domestic company;
- (2) foreign company; and
- (3) alien company;

that is authorized to transact business in Indiana.

(b) As used in this section, "NAIC" means the National Association of Insurance Commissioners.

(c) On or before March 1 of each year, an insurer shall file with the National Association of Insurance Commissioners and with the department a copy of the insurer's annual statement convention blank and additional filings prescribed by the commissioner for the preceding year. An insurer shall also file quarterly statements with the NAIC and with the department on or before May 15, August 15, and November 15 of each year in a form prescribed by the commissioner. The information filed with the NAIC under this subsection:

(1) must be:

- (A) in the same format; and
- (B) of the same scope;

as is required by the commissioner under section 21 of this chapter;

(2) to the extent required by the NAIC, must include the signed jurat page and the actuarial certification; and

(3) must be filed ~~on diskette~~ **electronically** in accordance with NAIC ~~diskette~~ **electronic** filing specifications.

The commissioner may grant an exemption from the requirement of subdivision (3) to domestic companies that operate only in Indiana. If an insurer files any amendment or addendum to an insurer's annual statement convention blank or quarterly statement with the commissioner, the insurer shall also file a copy of the amendment or addendum with the NAIC. Annual and quarterly financial statements are deemed filed with the NAIC when delivered to the address designated by the NAIC for the filings regardless of whether the filing is accompanied by any applicable fee.

(d) The commissioner may, for good cause, grant an insurer an extension of time for the filing required by subsection (c).

(e) A foreign company that:



(1) is domiciled in a state that has a law substantially similar to subsection (c); and

(2) complies with that law;

shall be considered to be in compliance with this section.

(f) In the absence of actual malice:

(1) members of the NAIC;

(2) duly authorized committees, subcommittees, and task forces of members of the NAIC;

(3) delegates of members of the NAIC;

(4) employees of the NAIC; and

(5) other persons responsible for collecting, reviewing, analyzing, and disseminating information developed from the filing of annual statement convention blanks under this section;

shall be considered to be acting as agents of the commissioner under the authority of this section and are not subject to civil liability for libel, slander, or any other cause of action by virtue of the collection, review, analysis, or dissemination of the data and information collected from the filings required by this section.

(g) The commissioner may suspend, revoke, or refuse to renew the certificate of authority of an insurer that fails to file the insurer's annual statement convention blank or quarterly statements with the NAIC or with the department within the time allowed by subsection (c) or (d).

SECTION 10. IC 27-1-22-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 2.5. (a) As used in this chapter, "exempt commercial policyholder" means an entity that:**

**(1) makes written certification to the entity's insurer on a form prescribed by the department that the entity is an exempt commercial policyholder;**

**(2) procures insurance with the services of a risk manager;**

**(3) has purchased the policy of insurance through an insurance agent licensed under IC 27-1-15.5-3; and**

**(4) meets any two (2) of the following criteria:**

**(A) Has a net worth of more than twenty-five million dollars (\$25,000,000) at the time the policy of insurance is issued.**

**(B) Has a net revenue or sales of more than fifty million dollars (\$50,000,000) in the preceding fiscal year.**

(C) Has more than twenty-five (25) employees per individual company or fifty (50) employees per holding company aggregate at the time the policy of insurance is issued.

(D) Has aggregate annual commercial premiums of more than fifty thousand dollars (\$50,000) in the preceding fiscal year.

(E) Is a nonprofit or a public entity with an annual budget of at least twenty-five million dollars (\$25,000,000) or assets of at least twenty-five million dollars (\$25,000,000) in the preceding fiscal year.

(b) As used in this chapter, "risk manager" means a full-time employee of, or a person retained by, an exempt commercial policyholder who is qualified through:

(1) education and experience; or

(2) training and experience;

to assess an exempt commercial policyholder's insurance needs and analyze and negotiate a policy of insurance on behalf of an exempt commercial policyholder. A risk manager shall not receive commission, fees, or other consideration from the insurer in connection with the purchase of a commercial policy of insurance by the exempt commercial policyholder."

Page 1, line 2, delete ":".

Page 1, line 3, reset in roman "shall file with the commissioner,".

Page 1, line 4, delete "(1)".

Page 1, line 4, strike "except as to inland marine risks which by general custom of".

Page 1, strike line 5.

Page 1, line 6, strike "plans;".

Page 1, line 6, delete "and".

Page 1, delete lines 7 through 8.

Page 1, line 9, delete "shall file with the commissioner".

Page 1, run in lines 3 through 9.

Page 1, between lines 11 and 12, begin a new paragraph and insert:

"(b) The following types of insurance are exempt from the requirements of subsections (a) and (j):

(1) Inland marine risks which by general custom of the business are not written according to manual rates or rating

plans.

**(2) Insurance, other than workers compensation insurance or medical malpractice insurance, issued to exempt commercial policyholders."**

Page 1, line 12, strike "(b)" and insert "**(c)**".

Page 1, line 15, strike "(c)" and insert "**(d)**".

Page 2, line 10, strike "(d)" and insert "**(e)**".

Page 2, line 13, strike "(e)" and insert "**(f)**".

Page 2, line 15, strike "(f)" and insert "**(g)**".

Page 2, line 23, strike "(g)" and insert "**(h)**".

Page 3, line 8, strike "(h)" and insert "**(i)**".

Page 3, line 17, strike "(i)" and insert "**(j)**".

Page 3, strike line 20.

Page 3, line 21, strike "which filings are not required, no" and insert "**(k) An**".

Page 3, line 21, after "shall" insert "**not**".

Page 3, line 28, strike "(k)" and insert "**(l)**".

Page 3, between lines 34 and 35, begin a new paragraph and insert:

**"(m) The department may adopt rules to:**

**(1) implement the exemption under IC 27-1-22-4(b);**

**(2) impose disclosure requirements the commissioner determines are necessary to adequately protect exempt commercial policyholders; and**

**(3) establish the form and content of the report required by subsection (o).**

**(n) Each insurer who issues insurance to an exempt commercial policyholder shall file an annual report with the department by February 1 of each year.**

**(o) An annual report must be accompanied by the fee prescribed by IC 27-1-3-15(e). For purposes of calculating the required fee, each policy purchased by an exempt commercial policyholder shall be considered a product filing under IC 27-1-3-15(e)."**

Page 3, between lines 34 and 35, begin a new paragraph and insert:

"SECTION 12. IC 27-1-22-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11. (a) Any subscriber which has authorized a rating organization to making filings on its behalf and any member thereof which does not wish to act under sections ~~4(f)~~ **4(g)** and ~~4(g)~~ **4(h)** of this chapter may appeal to the

1 commissioner from the action or decision of such rating organization  
 2 in approving or rejecting any proposed change in or addition to the  
 3 filings of such rating organization and the commissioner shall, after a  
 4 hearing held upon not less than ten (10) days written notice to the  
 5 appellant and to such rating organization, issue an order approving the  
 6 action or decision of such rating organization or directing it to give  
 7 further consideration to such proposal, or, if such appeal is from the  
 8 action or decision of the rating organization in rejecting a proposed  
 9 addition to its filings, he may, in the event he finds that such action or  
 10 decision was unreasonable, issue an order directing the rating  
 11 organization to make an addition to its filings in a manner consistent  
 12 with his findings within a reasonable time after the issuance of such  
 13 order.

14 (b) If such appeal is based upon the failure of the rating organization  
 15 to make a filing on behalf of such member or subscriber which is based  
 16 on a system of expense provisions which differs, in accordance with the  
 17 right granted in section 3(a)(3) of this chapter from the system of  
 18 expense provisions included in a filing made by the rating organization,  
 19 the commissioner shall, if he grants the appeal, order the rating  
 20 organization to make the requested filing for use by the appellant. In  
 21 deciding such appeal the commissioner shall apply the standards set  
 22 forth in section 3 of this chapter.

23 SECTION 13. IC 27-1-27-5 IS AMENDED TO READ AS  
 24 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) The  
 25 commissioner may not issue a certificate of authority to a nonresident  
 26 applicant until that nonresident files with the commissioner, in a form  
 27 prescribed by the commissioner, a designation ~~that the commissioner~~  
 28 **(and his successors in office) is of an individual resident of Indiana,**  
 29 **a corporate resident of Indiana, or an authorized Indiana insurer**  
 30 **as** the nonresident applicant's legal representative upon whom may be  
 31 served all lawful process in any action, suit, or proceeding:

- 32 (1) instituted by or on behalf of an interested person; and
- 33 (2) arising out of the nonresident applicant's public adjuster's
- 34 insurance business.

35 (b) The designation required by subsection (a) constitutes an  
 36 agreement that service of process upon the ~~commissioner nonresident~~  
 37 **applicant's legal representative** is of the same legal force and validity  
 38 as personal service of process upon an Indiana resident.

(c) Service upon a nonresident may be made by

(1) serving the ~~commissioner~~ **nonresident applicant's legal representative** with an appropriate number of copies of the process, and

(2) ~~payment to the commissioner of a fee as required under IC 27-1-3-15.~~

(d) The ~~commissioner~~ **nonresident applicant's legal representative** shall forward a copy of the process by registered mail to the nonresident at his last known address of record or principal place of business, keeping a record of such process and service.

(e) Service of process is sufficient as long as notice of the service and a copy of the process are sent not more than ten (10) days after the ~~commissioner nonresident applicant's legal representative~~ received the service of process on behalf of the nonresident.

(f) Service of process upon a nonresident in any action instituted by the commissioner under this chapter shall be made by the commissioner by mailing the process to the **nonresident applicant's legal representative or the** nonresident by registered mail at his last known address of record or principal place of business.".

Page 6, after line 9, begin a new paragraph and insert:

"SECTION 15. IC 27-6-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) Concurrently with the filing of the declaration provided for by the terms of section 3 of this chapter, the attorney (as defined in section 2 of this chapter) shall file with the department of insurance, state of Indiana, an instrument in writing, executed by him for said subscribers, conditioned that, upon the issuance of a certificate of authority provided for in section 9 of this chapter, service of process may be had upon the ~~commissioner of insurance~~ **individual resident of Indiana, corporate resident of Indiana, or authorized Indiana insurer, appointed by the subscribers as the subscribers' agent for service of process** in all suits in this state arising out of such policies, contracts, or agreements, which service shall be valid and binding upon all subscribers exchanging at any time reciprocal or interinsurance contracts through such attorney.

(b) Service of process under subsection (a) shall be made by delivering to the ~~commissioner of insurance~~ **subscribers' agent** two (2) copies of process with a complaint attached. ~~A fee as required under~~

~~IC 27-1-3-15 shall be paid to the commissioner at the time of service.~~  
 A writ against the commissioner of insurance shall not be returnable  
 until thirty (30) days after service.

(c) It shall be the duty of the ~~commissioner of insurance;~~  
**subscribers' agent**, upon service, to promptly send one (1) copy of  
 such summons, by registered letter, to the attorney specified in  
 subsection (a) and to file the other copy of summons in the office of the  
~~commissioner;~~ **subscribers' agent**.

SECTION 16. IC 27-7-2-24 IS AMENDED TO READ AS  
 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 24. Every person  
 lawfully engaged wholly or in part in writing worker's compensation  
 insurance in this state shall, upon July 1, 1935, by written notice to the  
 insurance commissioner, appoint ~~the insurance commissioner an~~  
**individual resident of Indiana, a corporate resident of Indiana, or**  
**an authorized Indiana insurer** as the person's resident agent in  
 Indiana upon whom service of process may be had for the enforcement  
 of this chapter.

SECTION 17. IC 27-8-1-13 IS AMENDED TO READ AS  
 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13. Any corporation,  
 association or society, organized under the laws of any other state or  
 government to insure lives on the assessment plan, or any corporation  
 carrying on the business of life or accident insurance on the assessment  
 plan, shall be licensed by the auditor of state, upon the payment to ~~him~~  
**the auditor of state** of a fee of twenty-five dollars (\$25.00), to do  
 business in this state. ~~Provided, Such~~ **However, the** corporation or  
 association shall first deposit with the auditor of state a certified copy  
 of its charter or articles of incorporation, a copy of its statement of  
 business for the preceding year, with the names and residence of its  
 officers, sworn to by the president and secretary, or like officers,  
 showing a detailed account of expenses and income, the amount of  
 insurance in force, its assets and liabilities in detail, and setting forth  
 that it has the ability to pay its policies or certificates to the full limit  
 named therein; a certificate from the insurance commissioner or from  
 a judge or clerk of a court of record of its home state, certifying that  
 corporations or associations insuring life in the assessment plan, and  
 paying policies in full, or providing accident indemnities, and chartered  
 under the laws of this state are legally entitled to do business in its  
 home state; a copy of its policy or certificate of membership,

1 application and by-laws, which must show that death losses are, in the  
 2 main, provided for by assessment upon the surviving members; and it  
 3 shall legally designate ~~a person;~~ **an individual resident of Indiana, a**  
 4 **corporate resident of Indiana, or an authorized Indiana insurer as**  
 5 **its** agent or attorney in fact, residing in this state, upon whom service  
 6 of process for said company or association may be made, ~~and, in~~  
 7 ~~default of such designation, service of process may be made upon the~~  
 8 ~~auditor of state of this state, who shall be deemed its agent for that~~  
 9 ~~purpose;~~ **and he the agent or attorney in fact** shall immediately notify  
 10 any corporation or association thus served.

11 SECTION 18. IC 27-8-3-19 IS AMENDED TO READ AS  
 12 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 19. Any corporation,  
 13 association, or society organized under the authority of another state or  
 14 government to issue, or which is engaged in the business of issuing,  
 15 policies or certificates of life or accident or life and accident insurance,  
 16 and for the payment of total and permanent disability claims to living  
 17 members on the assessment plan, as a condition precedent to  
 18 transacting business in this state, shall deposit with the insurance  
 19 commissioner:

- 20 (1) a certified copy of its articles of incorporation or association;
- 21 (2) a certified copy of a vote or resolution of the board of directors
- 22 of said company consenting that service of process in any suit
- 23 against such company may be served upon ~~the commissioner~~ **an**
- 24 **individual resident of Indiana, a corporate resident of**
- 25 **Indiana, or an authorized Indiana insurer, appointed by the**
- 26 **company as the company's agent for service of process,** with
- 27 like effect as if such company was chartered, organized, or
- 28 incorporated in the state of Indiana, and agreeing that any process
- 29 served upon such ~~commissioner agent~~ shall be of the same legal
- 30 force and validity as if served upon said company, and agreeing
- 31 that such service may be so made with such effect while any
- 32 liability remains outstanding against such company in this state;
- 33 (3) a statement, under oath of its president and secretary, in the
- 34 form by the commissioner required, of its business for the
- 35 preceding year;
- 36 (4) a certificate, under oath of its president and secretary, that it
- 37 is paying, and for the twelve (12) months then next preceding, has
- 38 paid, the maximum amount named in its policies or certificates in

1 full;  
2 (5) a certificate from the proper authority in its home state that  
3 corporations, associations or societies of this state, engaged  
4 according to the provisions of this chapter in life or accident, or  
5 life and accident insurance, and for the payment of total and  
6 permanent disability claims to living members upon the  
7 assessment plan, are legally entitled to do business in such state;  
8 (6) a copy of its policy or certificate, application, and bylaws,  
9 which must show that the insured's liability to contribute to the  
10 payments of benefits is not limited to the payment of a fixed  
11 periodical sum; and  
12 (7) evidence satisfactory to the commissioner that the corporation,  
13 association, or society accumulates a fund equal in amount to that  
14 required of similar corporations, associations, or societies of this  
15 state and that such accumulation is permitted by the law of the  
16 corporation, association, or society and is for the benefit of policy  
17 or certificate-holders only, and is invested in securities authorized  
18 under the law of its incorporation or association.  
19 The insurance commissioner shall thereupon issue or renew the  
20 authority of such corporation, association, or society to do business in  
21 this state, and such authority shall be revoked whenever the  
22 commissioner, on investigation, is satisfied that such corporation,  
23 association, or society is not paying the maximum amount named in its  
24 policies or certificates in full. Upon such revocation, the commissioner  
25 shall cause notice thereof to be published in a newspaper of general  
26 circulation, published in the city of Indianapolis, Indiana, and no new  
27 business shall be thereafter done by its agents in this state. If any such  
28 corporation, association, or society is authorized by the law under  
29 which it is incorporated to issue contracts of insurance not  
30 contemplated in this chapter, it shall nevertheless be permitted to  
31 transact in this state the character of business authorized by this chapter  
32 upon complying in all other respects with the requirements thereof and  
33 filing with the commissioner an agreement duly executed by the proper  
34 officers that such corporation, association, or society will not enter into  
35 or issue within this state any contract of insurance, policy, or agreement  
36 not authorized by this chapter. Upon a breach of such agreement by any  
37 such corporation, association, or society, the commissioner shall  
38 forthwith revoke and cancel its authority to transact business in this



1 state. When any other state or country shall impose any obligation upon  
 2 any such corporation, association, or society of this state, the like  
 3 obligation shall be imposed upon similar corporations, associations, or  
 4 societies and their agents of such state or country doing business in this  
 5 state. If the laws of such state where such corporation, association, or  
 6 society is organized will not admit corporations, associations, or  
 7 societies organized in this state, or doing business under this chapter,  
 8 to do business in such state, then such corporations, associations, or  
 9 societies shall not be admitted to do business in this state.

10 SECTION 19. IC 27-8-3-20 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 20. All processes in any  
 12 action or proceeding against any foreign corporation, association, or  
 13 society doing business in this state under the provisions of this chapter  
 14 may be served upon ~~the insurance commissioner,~~ **an individual**  
 15 **resident of Indiana, a corporate resident of Indiana, or an**  
 16 **authorized Indiana insurer, appointed by the corporation,**  
 17 **association, or society as its agent for service of process,** and any  
 18 lawful process against it which is served on the ~~commissioner~~ **agent**  
 19 shall be of the same legal force and validity as if served on the  
 20 corporation, association, or society, and this provision shall continue  
 21 in force so long as any liability remains outstanding against the  
 22 corporation, association, or society in this state, service upon such  
 23 ~~commissioner~~ **agent** shall be deemed sufficient service upon the  
 24 principal. When legal process against any such corporation,  
 25 association, or society is served upon such ~~commissioner,~~ **agent, he the**  
 26 **agent** shall immediately notify the corporation, association, or society  
 27 of such service by registered letter, prepaid, directed to its secretary, or,  
 28 in case of a corporation, association or society of a foreign country, to  
 29 the resident manager, if any, in this country, and shall, within two (2)  
 30 days after such service, forward in the same manner a copy of the  
 31 process served on ~~him~~ **the agent** to such secretary or manager, or to  
 32 any person previously designated by the corporation, association, or  
 33 society, in writing. ~~The plaintiff in each process so served shall pay to~~  
 34 ~~the commissioner at the time of service a fee as required under~~  
 35 ~~IC 27-1-3-15, which shall be recovered by him as a part of the taxable~~  
 36 ~~costs if he prevails in the suit.~~ The **commissioner agent** shall keep a  
 37 record of all processes served upon ~~him,~~ **the agent** which record shall  
 38 show the day and hour when such service was made.

SECTION 20. IC 27-11-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) Every society authorized to do business in Indiana shall appoint in writing ~~the commissioner and each successor in office~~ **an individual resident of Indiana, a corporate resident of Indiana, or an authorized Indiana insurer** to be its true and lawful attorney upon whom all lawful process in any action or proceeding against it shall be served and shall agree in such writing that:

(1) any lawful process against it that is served on the attorney shall be of the same legal force and validity as if served upon the society; and

(2) the authority shall continue in force so long as any liability remains outstanding in this state.

Copies of the appointment, certified by the commissioner, shall be considered sufficient evidence thereof and shall be admitted in evidence with the same force and effect as the original might be admitted.

(b) Service shall only be made upon the ~~commissioner attorney~~ or, if absent, upon the person in charge of the ~~commissioner's attorney's~~ office. It shall be made in duplicate and shall constitute sufficient service upon the society. When legal process against a society is served upon the ~~commissioner, attorney~~, the ~~commissioner attorney~~ shall immediately forward one (1) of the duplicate copies by registered mail, prepaid, directed to the secretary or corresponding officer. No service shall require a society to file its answer, pleading, or defense in less than thirty (30) days from the date of mailing the copy of the service to a society. Legal process shall not be served upon a society except in the manner provided in this section. ~~At the time of serving any process upon the commissioner, the plaintiff or complainant in the action shall pay to the commissioner a fee as required under IC 27-1-3-15.~~

SECTION 21. IC 34-18-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. If a health care provider or its insurer has agreed to settle its liability on a claim by payment of its policy limits of ~~one two~~ **hundred fifty** thousand dollars ~~(\$100,000), (\$250,000)~~, and the claimant is demanding an amount in excess of that amount, the following procedure must be followed:

(1) A petition shall be filed by the claimant in the court named in the proposed complaint, or in the circuit or superior court of

- 1 Marion County, at the claimant's election, seeking:
- 2 (A) approval of an agreed settlement, if any; or
- 3 (B) demanding payment of damages from the patient's
- 4 compensation fund.
- 5 (2) A copy of the petition with summons shall be served on the
- 6 commissioner, the health care provider, and the health care
- 7 provider's insurer, and must contain sufficient information to
- 8 inform the other parties about the nature of the claim and the
- 9 additional amount demanded.
- 10 (3) The commissioner and either the health care provider or the
- 11 insurer of the health care provider may agree to a settlement with
- 12 the claimant from the patient's compensation fund, or the
- 13 commissioner, the health care provider, or the insurer of the
- 14 health care provider may file written objections to the payment of
- 15 the amount demanded. The agreement or objections to the
- 16 payment demanded shall be filed within twenty (20) days after
- 17 service of summons with copy of the petition attached to the
- 18 summons.
- 19 (4) The judge of the court in which the petition is filed shall set
- 20 the petition for approval or, if objections have been filed, for
- 21 hearing, as soon as practicable. The court shall give notice of the
- 22 hearing to the claimant, the health care provider, the insurer of the
- 23 health care provider, and the commissioner.
- 24 (5) At the hearing, the commissioner, the claimant, the health care
- 25 provider, and the insurer of the health care provider may
- 26 introduce relevant evidence to enable the court to determine
- 27 whether or not the petition should be approved if the evidence is
- 28 submitted on agreement without objections. If the commissioner,
- 29 the health care provider, the insurer of the health care provider,
- 30 and the claimant cannot agree on the amount, if any, to be paid
- 31 out of the patient's compensation fund, the court shall, after
- 32 hearing any relevant evidence on the issue of claimant's damage
- 33 submitted by any of the parties described in this section,
- 34 determine the amount of claimant's damages, if any, in excess of
- 35 the ~~one two hundred fifty~~ thousand dollars ~~(\$100,000)~~ **(\$250,000)**
- 36 already paid by the insurer of the health care provider. The court
- 37 shall determine the amount for which the fund is liable and make
- 38 a finding and judgment accordingly. In approving a settlement or

1 determining the amount, if any, to be paid from the patient's  
 2 compensation fund, the court shall consider the liability of the  
 3 health care provider as admitted and established.  
 4 (6) A settlement approved by the court may not be appealed. A  
 5 judgment of the court fixing damages recoverable in a contested  
 6 proceeding is appealable pursuant to the rules governing appeals  
 7 in any other civil case tried by the court.  
 8 (7) A release executed between the parties does not bar access to  
 9 the patient's compensation fund unless the release specifically  
 10 provides otherwise.  
 11 SECTION 22. [EFFECTIVE JULY 1, 1999] (a) IC 27-1-3-15,  
 12 IC 27-1-3-28, IC 27-1-15.5-4, IC 27-1-17-4, IC 27-1-20-21.3,  
 13 IC 27-1-27-5, IC 27-6-6-4, IC 27-7-2-24, IC 27-8-1-13, IC 27-8-3-19,  
 14 IC 27-8-3-20, and IC 27-11-9-1, all as amended by this act, apply  
 15 upon receipt by the commissioner of the department of insurance  
 16 of the designation from the insurer of an agent for service of  
 17 process.  
 18 (b) This SECTION expires June 30, 2004.  
 19 SECTION 23. An emergency is declared for this act."  
 20 Renumber all SECTIONS consecutively.  
 (Reference is to SB 500 as introduced.)

**and when so amended that said bill do pass.**

Committee Vote: Yeas 8, Nays 0.

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**Paul**

**Chairperson**